

WILLIAM "BILL" EDDINS
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OFFICE OF
STATE ATTORNEY
FIRST JUDICIAL CIRCUIT OF FLORIDA

April 8, 2010

PRESS RELEASE

State Attorney Bill Eddins announced today that the review regarding the Arts Council of Northwest Florida has been completed. As a result of this review, we have determined that criminal charges are appropriate. An Information has been filed today charging The Arts Council of Northwest Florida, Inc. with two counts of making false official statements. Attached is the Report that sets forth the details of this investigation and a copy of the Information that has been filed in this matter.

For further information, please contact Chief Assistant State Attorney Gregory Marcille at 595-4761.

REPORT ON
ARTS COUNCIL OF NORTHWEST FLORIDA

This office has completed its review of complaints alleging financial irregularities involving the Arts Council of Northwest Florida. These complaints alleged that the Arts Council had filed false reports to the City of Pensacola or Escambia County in order to receive funding and that designated funds were used improperly. In addition, there were concerns that funds may have been misappropriated by individuals employed by the Arts Council.

This review involved the examination of numerous documents including financial statements, audit reports, bank accounts, appropriation agreements, and Arts Council board minutes. Numerous witnesses were interviewed including past and present board members of the Arts Council, both the Executive Director and Business Manager of the Arts Council as well as employees of both the City of Pensacola and Escambia County. As a result of our review, we have determined that probable cause exists to find that the actions of the Arts Council constituted a violation of Florida law. As these violations have continued over an extended period of time, we have charged The Arts Council of Northwest Florida, Inc. with two counts of making false official statements.

The Arts Council of Northwest Florida is a not for profit corporation that was established in 1969. Its purpose was to serve the local community in the growth and development of all forms of creative expression. The Arts Council operated under a "united arts" approach raising money from local government, foundations, corporations, and individuals. It also sponsored various events including Gallery Night and the Outside Arts Fair. In addition, the Arts Council acted as a conduit for distributing city and county money to various other local arts organizations.

In fiscal year 2009, both the City of Pensacola and Escambia County appropriated funding for the Arts Council. Escambia County's appropriation was a total of \$100,000. Of this amount, \$40,000 was to be used to subsidize the salaries and benefits of the Arts Council's two paid employees. The remaining \$60,000 was to be distributed to twelve local arts organizations. The City of Pensacola appropriated \$60,000 for the Arts Council. The entire amount provided by the City was to be distributed to local arts organizations.

The agreement with the County called for the Arts Council to be reimbursed after providing proof that eligible costs had been paid to the various local arts organizations. In order to do this, the Arts Council would write checks on a monthly basis to the various local organizations that were receiving funding. A reimbursement statement was then provided to the county showing that these expenses had been paid. The County would then reimburse the Arts Council.

In reality, the Arts Council was holding the checks that were supposed to be sent to the various local organizations and providing a false statement to the County that the checks had in fact been distributed. Once the funds were received, the Arts Council would then go back and pay the previous expenses to the extent that the funds were available. In addition, the Arts Council improperly used the same expenses and invoices in order to receive funding from both the City and the County.

The funding from the City of Pensacola was paid in a single lump sum payment. It became a regular practice of the Arts Council to use the current funding to pay the prior years expenses. This had the effect of lapping grant money in order to the make ends meet.

Eventually, the revenue received by the Arts Council was insufficient to cover expenses. When this occurred, the Arts Council began using funds that were designated as pass through dollars for local arts organizations to pay operating expenses. Instead, this had the effect of improperly diverting these funds to salaries and other expenses that were intended for local arts organizations.

We have also reviewed allegations involving what is commonly known as the Kobacker Fund. This was a gift made to the Arts Council in 1988 that was restricted to a specific use. The records are limited as to how this gift has been used. It is clear, however, that these designated funds have been used inappropriately and not according to the terms of the gift.

During this review, it was determined that it had been the regular practice of the Arts Council, for at least the past seven years, to hold checks to both suppliers and arts organizations until additional funds were available. This practice was known by several current and former Arts Council board members as well as some local arts organizations. This procedure predated both the current Executive Director and Business Manager.

A number of factors led to the failure of the Arts Council to follow the appropriate practices and procedures required for the handling of public monies. The Arts Council has had four Executive Directors since 2004. This has led to numerous problems including a lack of understanding of how the appropriation agreements work as well as a failure to establish appropriate internal controls. The organization failed to adequately budget revenue and expenses which resulted in large annual deficits. Finally, there was a failure to appropriately manage designated monies such as the Kobacher Fund to prevent these funds from being co-mingled and used for inappropriate purposes.

Based upon our review, we have determined that criminal charges are appropriate in this matter. While there is no evidence that any individual misappropriated any funds to their own use, it is clear that false statements were filed and that city and county money were not used for its intended purpose. As this practice continued over an extended period of time, we have determined that it is not appropriate to charge any one individual with these violations. For this reason, charges have been filed against the organization itself. Both the City and the County have taken action to prevent this situation from occurring in the future.

The arraignment in this case has been scheduled on April 29, 2010 at 8:30 a.m. before Judge David Ackerman.

- 1) FALSE OFFICIAL STATEMENT
- 2) FALSE OFFICIAL STATEMENT

Issue Criminal Summons

**IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA
IN THE COUNTY COURT OF ESCAMBIA COUNTY, FLORIDA**

STATE OF FLORIDA

vs

Case No.:

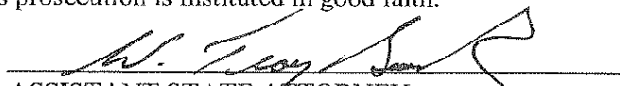
THE ARTS COUNCIL OF NORTHWEST FLORIDA, INC.,
Defendant

WILLIAM EDDINS, STATE ATTORNEY FOR THE FIRST JUDICIAL CIRCUIT OF FLORIDA, PROSECUTING FOR THE FIRST CIRCUIT OF FLORIDA, CHARGES THAT **THE ARTS COUNCIL OF NORTHWEST FLORIDA, INC.,** between May 1, 2009 and September 30, 2009, at and in Escambia County, Florida, did knowingly make a false statement in writing to-wit: **grant payment request documentation**, with the intent to mislead a public servant to-wit: **EMPLOYEES IN THE OFFICE OF MANAGEMENT AND BUDGET FOR ESCAMBIA COUNTY**, in the performance of his or her official duty, in violation of Section 837.06, Florida Statutes. (M-2)


COUNT 2: AND YOUR INFORMANT AFORESAID, PROSECUTING AS AFORESAID, ON HIS OATH AFORESAID, FURTHER INFORMATION MAKES THAT **THE ARTS COUNCIL OF NORTHWEST FLORIDA, INC.,** between October 19, 2009 and October 31, 2009 at and in Escambia County, Florida, did knowingly make a false statement in writing to-wit: **Account QuickReport dated 10/20/2009 @ 5:15 PM**, with the intent to mislead a public servant to-wit: **EMPLOYEES IN THE FINANCE DEPARTMENT OF THE CITY OF PENSACOLA**, in the performance of his or her official duty, in violation of Section 837.06, Florida Statutes. (M-2)

STATE OF FLORIDA
 COUNTY OF ESCAMBIA

Before me personally appeared the undersigned designated Assistant State Attorney for the First Judicial Circuit of Florida, being personally known to me, and who first being duly sworn, says that the allegations set forth in the foregoing information are based on facts that have been sworn as true, and which if true, would constitute the offense there charged, that said Assistant State Attorney has received testimony under oath from a material witness or witnesses for the offense and that this prosecution is instituted in good faith.


 ASSISTANT STATE ATTORNEY
 TROY BOUK
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Sworn to and subscribed before me this 8th day of April, 2010.


 Notary Public

